

**Report of the**  
**Senate Interim Committee**  
**on the Sanctity of Life**



**December 23, 2015**

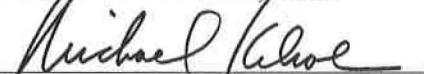
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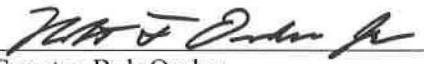
The Honorable Ron Richard, President Pro Tempore  
State Capitol Building  
Jefferson City, Missouri 65101

Dear Mr. President Richard:

The Senate Interim Committee on the Sanctity of Life, acting according with its charge, has met, taken testimony, deliberated, and concluded its study on issues relating to Planned Parenthood in Missouri. The committee now presents to the Missouri Senate a report of the committee's activities and actions to date.

  
Senator Kurt Schaefer, Chair

  
Senator Mike Kehoe

  
Senator Bob Onder

  
Senator Eric Schmitt

  
Senator Jill Schupp

  
Senator David Sater

Vice-Chair

  
Senator Will Kraus

  
Senator Jeanie Riddle

  
Senator Maria Chappelle-Nadal

## **I. CHARGE OF COMMITTEE**

Pursuant to Senate Rule 31, Senate President Pro Tempore Tom Dempsey established the Senate Interim Committee on the Sanctity of Life. The duties of the committee are as follows:

- (1) Conduct an in-depth analysis of the Planned Parenthood business model and the methods by which they dispose of human remains from aborted fetuses;
- (2) Investigate whether Planned Parenthood, and any of its affiliates or associates, is or has engaged in activity contrary to the laws of this state;
- (3) Determine whether any state dollars have been directly used in such activity or used in a manner to offset expenses so that Planned Parenthood and any of its affiliates and associates might engage in such alleged activities;
- (4) Investigate whether any person, past or present, employed by the state of Missouri had any prior knowledge of any such alleged activity or misuse of state funds; and
- (5) Examine and investigate any other issues the committee deems relevant to the allegations brought forth against Planned Parenthood.

## **II. COMMITTEE ACTIVITIES**

The President Pro Tempore of the Senate appointed Senator Kurt Schaefer, Senator David Sater, Senator Mike Kehoe, Senator Will Kraus, Senator Bob Onder, Senator Jeanie Riddle, Senator Eric Schmitt, Senator Maria Chappelle-Nadal, Senator Paul LeVota, and Senator Jill Schupp to the committee, with Senator Schaefer selected as the chair and Senator Sater selected as the vice-chair.

Over the course of several months, the Senate Interim Committee on the Sanctity of Life held public hearings, solicited public testimony, and developed recommendations for the Senate. The committee held hearings on the following dates:

- July 27, 2015 – Senate Lounge, State Capitol Building
- August 13, 2015 – Senate Committee Room #2, State Capitol Building
- August 25, 2015 – Senate Lounge, State Capitol Building
- September 15, 2015 – Senate Committee Room #1, State Capitol Building

#### **A. SUMMARY OF JULY 27<sup>TH</sup> HEARING**

Senator Schaefer called the hearing to order at 1 p.m. This hearing was an organizational meeting to familiarize the committee members as to the charge of the committee, to discuss initial thoughts and preliminary questions, and to hear testimony from Steven Alan Ramsey from the Missouri Department of Health and Senior Services. Topics discussed during this meeting included: the potential sale or donation of fetal body parts in Missouri; the protocol and verification procedures for the disposal of fetal body parts from Planned Parenthood; the ambulatory surgical center licensing process for the Columbia Planned Parenthood facility; and further questions concerning hospital privileges for physicians performing abortions. Mr. Ramsey answered some questions for the committee regarding the recently-granted license for the Columbia Planned Parenthood facility to perform medication-induced abortions, and the committee expressed a desire to hear testimony from other members of the Department at the next committee hearing.

#### **B. SUMMARY OF AUGUST 13<sup>TH</sup> HEARING**

Senator Schaefer called the hearing to order at 1 p.m. The purpose of this hearing was to receive testimony from several witnesses from the Missouri Department of Health and Senior Services regarding Planned Parenthood. The committee heard sworn testimony, pursuant to a subpoena issued by the committee, from Tracy Roark and Director Gail Vasterling.

First, Ms. Roark discussed her participation in the Department's issuance of a license to the Columbia Planned Parenthood facility in July of 2015 for the provision of medication-induced abortions. She provided clerical support and application review for the Columbia Planned Parenthood license, working under John Langston.

The committee heard next from Director Gail Vasterling concerning the Department's supervision of ambulatory surgical centers in general and Planned Parenthood facilities in St. Louis and Columbia specifically. Director Vasterling discussed the process for inspections of abortion facilities. The inspections are carried out by survey teams consisting of at least two nurses and one licensing expert while John Langston supervises. The teams conduct annual, unannounced inspections and check for compliance with state laws and regulations. The survey teams also reviews medical records, interviews staff at the facility, and observes facility operations.

Director Vasterling also discussed the pathology reports that are submitted to the Department pursuant to Section 188.047. Under this statute, a representative sample of tissue for each abortion performed must be sent to a pathologist and a report of the pathologist's findings must be sent to the Department. Director Vasterling noted that the Department receives those reports, files them, and does nothing further with them. Additionally, she had no knowledge of how, or if, the pathologist disposed of the fetal tissue after the pathological examination was completed.

Senator Schaefer then recessed the hearing to be reconvened on August 25, 2015 at 1 p.m.

### C. SUMMARY OF AUGUST 25<sup>TH</sup> HEARING

Senator Schaefer called the hearing to order at 1 p.m. The purpose of this hearing was to continue receiving testimony from the Missouri Department of Health and Senior Services and from the University of Missouri-Columbia. The committee heard sworn testimony, pursuant to a subpoena issued by the committee, from Director Gail Vasterling and John Langston. The committee also heard testimony from University of Missouri-Columbia Chancellor R. Bowen Loftin.

Director Gail Vasterling continued her testimony from the August 13<sup>th</sup> hearing. She discussed the hospital privileges of Dr. Colleen McNicholas, the physician at the Columbia Planned Parenthood facility. These “refer and follow” privileges had been granted by MU Health Care and were integral to the Department’s decision to grant a license to the facility to perform medication-induced abortions. Members of the committee questioned the Department’s decision to consider such privileges sufficient to satisfy the requirements of Section 197.215, which requires surgical privileges. Director Vasterling maintained that the Department interpreted that provision as only requiring surgical privileges for physicians who would perform surgical abortions and that this license was limited only to medication-induced abortions. Additionally, the Department held that the “refer and follow” privileges granted to Dr. McNicholas by MU Health Care were sufficient to satisfy the requirements of Section 188.080, which requires “clinical” privileges for physicians who provide abortion services. Members of the committee questioned Director Vasterling on the Department’s authority to grant conditional licenses for medication-induced abortions alone.

Next, John Langston testified for the Department. He supervises the survey teams sent to inspect abortion facilities and oversees the generation of ambulatory surgical center licenses. He discussed the inspections of ambulatory surgical centers in general and the St. Louis

Planned Parenthood abortion facility specifically. He mentioned that the survey teams in 2013 and in 2015 found some deficiencies in statutory and regulatory compliance during the inspections. In one instance, in March 2015, the survey team found evidence that not all pathology reports had been sent to the Department of Health and Senior Services as required by law, and that Planned Parenthood had not been following up with the pathology lab to confirm that the reports had been sent to the Department. He did not know how long that deficiency had persisted. The Department took corrective action against the facility and the deficiency has since been corrected. No fines or any other penalties were imposed on Planned Parenthood.

Mr. Langston also briefly discussed physician privileges and mentioned that if MU Health Care had not granted Dr. McNicholas “refer and follow” privileges, the Department could not have granted the license for the Columbia facility. With this, the Department’s testimony ended.

Next, University of Missouri – Columbia Chancellor R. Bowen Loftin came to testify before the committee. He discussed the role University of Missouri staff played in granting Dr. McNicholas “refer and follow” privileges. Chancellor Loftin noted that those at the University who authorize staff privileges must treat all applications without discrimination in order to retain federal grants. He mentioned that only four physicians had “refer and follow” privileges at MU Health Care, as most physicians do not request these.

Chancellor Loftin discussed in some detail a series of University account e-mails detailing efforts on the part of University Adjunct Professor and Planned Parenthood clinician Kristin Metcalf-Wilson to secure privileges for Dr. Colleen McNicholas. The e-mails continued for over a year, as Professor Metcalf-Wilson and Dr. McNicholas sought assistance from other

University staff and faculty to facilitate the process. The Chancellor expressed concern with the manner in which the privilege process had been handled in Dr. McNicholas' case, particularly with the extent to which University personnel had seemingly actively recruited Dr. McNicholas to come to Columbia to the Planned Parenthood facility. He advocated for an internal review of how that procedure was carried out at the University.

Chancellor Loftin also discussed the expenditure of public funds through the University to Planned Parenthood. Members of the committee expressed concern that the University's various agreements with Planned Parenthood might be a violation of state law, particularly Sections 188.205, 188.210, and 188.215 prohibiting the use of public funds, employees, and facilities to perform, assist, encourage, or counsel abortions. Chancellor Loftin testified that the University had some existing agreements with Planned Parenthood, primarily focused on education or family planning. The University had recently cancelled most of these agreements, with many already expired and others not needed. The only one remaining at the time of his testimony was a social work program focusing on providing students with social work field experience.

#### **D. SUMMARY OF SEPTEMBER 15<sup>TH</sup> HEARING**

Senator Schaefer called the hearing to order at 1 p.m. The purpose of this hearing was to receive testimony from members of the public interested in matters before the committee. The committee received testimony from the following members of the public:

- Gina Allen, individual
- Judith Bax, individual
- Theresa Berendzen, individual
- Velora Cummings, individual

- Sharonda Donner, individual
- Bev Ehlen, Pro Life coordinator
- Kathy Forck, individual
- Susan Gibson, National Organization for Women
- Mike Hoey, Executive Director of Missouri Catholic Conference
- Maria Juarez, Mizzou Students for Life
- Diana Kaufman, individual
- Susan Klein, Missouri Right to Life
- Bonnie Lee, individual
- Mary Maschmeier, founder and president of Defenders of the Unborn
- Joanne Schrader, member of 40 Days of Life in Columbia
- Delbert Scott, former State Senator
- Brian Westbrook, Coalition for Life St. Louis

### **III. RECOMMENDATIONS**

On November 24, 2015, the committee issued subpoenas to Mary Kogut of Planned Parenthood of the St. Louis Region and Southwest Missouri and to Dr. James Miller of Pathology Services, Inc., requesting documents and witnesses to appear before the committee the following month. Both Planned Parenthood and Dr. Miller have since responded to the subpoenas objecting to the committee's authority to issue subpoenas and to compel a response. The committee recommends the Senate do the following:

- (1) Continue the Senate Interim Committee on the Sanctity of Life through the end of the legislative session in May of 2016. Because the committee was unable to hear testimony from Planned Parenthood of the St. Louis Region and Southwest Missouri and from Dr. James Miller of Pathology Services, Inc., many questions remain

unanswered. In order for the committee, to carry out its charge to investigate Planned Parenthood, the disposal of fetal remains, and other related issues, members must be able to ask more questions.; and

- (2) Initiate contempt proceedings against Mary Kogut of Planned Parenthood of the St. Louis Region and Southwest Missouri and against Dr. James Miller of Pathology Services, Inc., for failure to comply with a duly-issued subpoena and failure to appear before the committee and produce the requested documents.